

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:19-cr-20652  
Hon. David M. Lawson

PATRICIA FLANNERY,

Defendant.

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**UNOPPOSED MOTION TO ADJOURN SENTENCING**

NOW COMES PATRICIA FLANNERY, Defendant herein, by and through her attorney, Mark J, Kriger, and moves this Honorable Court for the entry of an Order adjourning her sentencing until after she appears and gives testimony as a witness for the government at the trial of the co-defendant Steven King, and in support of said motion, says as follows:

1. She has entered a guilty plea in this case, and is awaiting sentencing, which is currently set for November 17, 2022.
2. She has also agreed to cooperate with the government, and expects to appear as a witness for the government at the trial of the co-defendant Steven King, which is currently set to begin on February 14, 2023.

3. It is anticipated that if Ms. Flannery is sentenced before giving testimony at the trial of the co-defendant Steven King, the government will file a request for a downward departure pursuant to U.S.S.G. § 5K1.1, prior to her sentencing, and then file a motion for further reduction of her sentence, pursuant to F.R.Cr.P. Rule 35(b) once she has testified.

4. Under Sixth Circuit law, “it is clear that sentencing courts cannot consider the potential for a future sentence reduction in imposing sentence.” *United States v. Recla*, 560 F.3d 539, 545 (6<sup>th</sup> Cir. 2009) (citing *United States v. Drown*, 942 F.2d 55, 59 (1st Cir.1991)); accordingly, if Ms. Flannery is sentenced before giving her testimony in Mr. King’s trial, the Court would be foreclosed from considering the potential impact of that testimony.

5. Therefore, the interests of justice would best be served if her sentencing were delayed until after Mr. King's trial, so that the Court can have the benefit of all the relevant information regarding her cooperation, and can, on the basis of that, and all the other information about Ms. Flannery's circumstances, impose the most fair and just sentence in the first instance.

6. Counsel has conferred with Assistant United States Attorney Shankar Ramamurthy, who has authorized him to represent that the government does not oppose the grant of relief herein sought.

WHEREFORE, defendant respectfully prays that this Honorable Court enter an Order adjourning her sentencing until after she appears and gives testimony as a witness for the government at the trial of the co-defendant Steven King.

Respectfully submitted,

s/Mark J. Kriger  
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DATED: October 19, 2022

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**MEMORANDUM BRIEF IN SUPPORT OF MOTION  
TO ADJOURN SENTENCING**

**Question presented.** Whether defendant's sentencing should be adjourned?

**Principal authority..** *United States v. Colomb*, 419 F.3d 292, 299 (5<sup>th</sup> Cir. 2005).

In the motion in support of which this memorandum is written, defendant asks, without opposition by the government, that the Court adjourn her sentencing until after she gives testimony as a government witness in the trial of the co-defendant Steven King.

As noted in the motion in support of which this memorandum is written, it is anticipated that if Ms. Flannery is sentenced before giving testimony at the trial of the co-defendant Steven King, the government will file a request for a downward

departure pursuant to U.S.S.G. § 5K1.1, prior to her sentencing, and then file a motion for further reduction of her sentence, pursuant to F.R.Cr.P. Rule 35(b) once she has testified.

Since “sentencing courts cannot consider the potential for a future sentence reduction in imposing sentence,” *United States v. Recla*, 560 F.3d 539, 545 (6<sup>th</sup> Cir. 2009), if Ms. Flannery is sentenced before giving her testimony in Mr. King’s trial, the Court would be foreclosed from considering the potential impact of that testimony, and thus would be forced to impose a sentence based on a less-than complete picture of Mr. Flannery’s circumstances.

Accordingly, defendant contends - and the government does not disagree - that the interests of justice would best be served if her sentencing were delayed until after Mr. King's trial, so that the Court can have the benefit of all the relevant information regarding her cooperation, and can, on the basis of that, and all the other information about Ms. Flannery's circumstances, impose the most fair and just sentence in the first instance.

As the Fifth Circuit noted in *United States v. Colomb*, 419 F.3d 292, 299 (5<sup>th</sup> Cir. 2005), “[a] district court has inherent power ‘to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.’” (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). The court

unquestionably has the discretion to grant the defendant's request, and counsel would suggest that it should do so in the informed exercise of that discretion.

Respectfully submitted,

s/Mark J. Kriger  
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DATED: October 19, 2022

### CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2022 I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

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